

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
E/S Benson Ave., 175 ft. S * ZONING COMMISSIONER
of c/1 Marsha Road * OF BALTIMORE COUNTY
5225 Benson Avenue *
13th Election District * Case No. 94-19-A
1st Councilmanic District *
Michael S. Fischer *
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property known as 5225 Benson Avenue in the Arbutus section of Baltimore County. The Petitioner/property owner, Michael S. Fischer, seeks relief from Sections 101, 102.1, 1801.1A and 415 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow two recreational vehicles to be stored in the rear yard, in lieu of the permitted one recreational vehicle. The relief requested is more particularly shown on Petitioner's Exhibit No. 1., the site plan submitted.

Appearing at the public hearing held for this case was the property owner, Michael S. Fischer. Also appearing in support of the Petition was Viola M. Fischer, the Petitioner's mother, and Robert Funk, a neighbor. There were no Protestants present.

Testimony and evidence presented was that the subject property is comprised of two lots in the Arbutus subdivision. Specifically, the property is "P" shaped and contains both lot Nos. 93 and 106. The total area of the tract is .58 acres and the property is zoned D.R.5.5.

The property is developed with an existing residence in the stem portion of the site fronting Benson Ave. To the rear, where the property

widens, is an existing detached garage. Further, it is in this rear portion of the property where the Petitioner proposes to store two recreational vehicles. In this regard, the Petitioner notes that he owns a 25 ft. cabin cruiser and a 20 ft. run-about. These boats are considered recreational vehicles under the definition of same as contained in Section 101 of the B.C.Z.R. In support of the request, Mr. Fischer testified that he usually keeps the larger boat in the water during the Summer. However, it is sometimes stored with the other boat on the subject property for repairs and long term storage. He further observed that his property is significantly larger than the surrounding lots and is easily able to accommodate the vehicles. Further, he advised that his immediate neighbors support his Petition for Variance and that placement of the boats in the rear of the property serves to screen same from the houses which immediately abut Benson Avenue. Mr. Funk corroborated Mr. Fischer's testimony.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

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Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requested, and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variance will be in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 25th day of August, 1993 that a variance from Sections 101, 102.1, 1801.1A and 415 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow two recreational vehicles to be stored in the rear yard, in lieu of the permitted one recreational vehicle, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at his own risk until

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such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. The variance relief granted herein is restricted to the 25 ft. cabin cruiser and the 20 ft. run-about presently owned by the Petitioner. In the event of the loss and/or sale of either of the said recreational vehicles, the relief granted herein shall be forfeited. If the Petitioner wishes to replace one of the above identified vehicles with another recreational vehicle, amendment of the relief granted herein shall be permitted only after notification to the Zoning Commissioner and a public hearing, if required.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mnn


-4-

ORDER RECEIVED FOR FILING
Date 8/25/93
By Th. Funk

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By Th. Funk

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-4386
August 24, 1993

Mr. Michael S. Fischer
5225 Benson Avenue
Baltimore, Maryland 21227

RE: Case No. 94-19-A
Petition for Variance
Property: 5225 Benson Avenue

Dear Mr. Fischer:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner

LES:mnn
att.



Petition for Variance

94-19-A
to the Zoning Commissioner of Baltimore County
for the property located at 5225 Benson Ave
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 101; 102.1; 1801.1A; 415 of the BCZR To allow two recreational vehicles stored in the rear yard in lieu of the required one.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

I own more than one boat + cannot afford to store them elsewhere - my property is large enough to store them and is located to the rear of all other properties.
Property is to be posted and advertised as prescribed by Zoning Regulations.
I or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Correct Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Signature

Address

City

State

Zipcode

(We do solemnly declare and affirm, under the penalties of perjury, that we are the legal owner(s) of the property which is the subject of this Petition.)

Legal Owner(s):

(Type or Print Name)

Signature

(Type or Print Name)

Signature

Address

City

State

Zipcode

Signature

Address

City

State

Zipcode

Signature

Address

City

State

Zipcode

EXAMPLE 3 - Zoning Description

- 3 copies
94-19-A

Three copies are required. Copies of deeds cannot be used in place of this description. Use this fill-in format provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet.

ZONING DESCRIPTION FOR 5225 Benson Ave.
Election District #13 (address)
Councilmanic District

Beginning at a point on the East side of Benson
(north, south, east or west)

Ave. which is 50' R/W 24' Private
(street on which property fronts) (number of feet of right-of-way width)

wide at a distance of 175' South of the
(number of feet) (north, south, east or west)

centerline of the nearest improved intersecting street Marsha Rd.
(name of street)

which is 50' wide. *Being Lot # 93+16,
(number of feet of right-of-way width)

Block 5200, Section # SW in the subdivision of
ARBUS as recorded in Baltimore County Plat

(name of subdivision)

Book # 4, Folio # 87, containing
25,329' .58 ACRES ITEM # 18
(square feet and acres)

*If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber #, Folio #, and include the measurements and directions (metes and bounds only) here and on the plat in the correct location.

Example of metes and bounds: N.87° 12' 13" E. 321.1 ft., S.18° 27' 03" E.87.2 ft., S.62° 19' 00" W. 318 ft., and N.08° 15' 22" W. 80 ft. to the place of beginning.

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CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY 94-19-A
Towson, Maryland

District 13th Date of Posting 7/29/93
Posted for: Variances
Petitioner: Michael S. Fischer
Location of property: 5225 Benson Ave, Arbutus, MD 21227
Location of Sign: Along Marsha Rd. property being zoned
Remarks: None Date of return: 7/29/93
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 7/29 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/29, 1993

THE JEFFERSONIAN,

A. Henrichsen
LEGAL AD. - TOWSON
KAMARS

4-61-111
Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Account: R0014150
Number
ITEM # 18
R.T.
Date 7-12-93
M. FISCHER
5225 BENSON AVE.
BALTO MD. 21227
010 - VARIANCE - \$50.00
050 - SIGN - \$35.00
TOTAL - \$85.00
03A03M0471NICHRC \$85.00
BA C01017AM07-12-93
Please Make Checks Payable To: Baltimore County
Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353
JUL 27 1993
NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
CASE NUMBER: 94-19-A (Item 18)
5225 Benson Avenue
E/S Benson Avenue, 175' S of C/L Marsh Rd
13th Election District - 1st Councilmanic
Petitioner(s): Michael S. Fischer
HEARING: TUESDAY, AUGUST 17, 1993 at 11:00 a.m. in Rm. 118, Old Courthouse.
Variance to allow two recreational vehicles stored in the rear yard in lieu of the required one.
Arnold Jablon
Director
cc: Michael S. Fischer
NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3351.
Printed on Recycled Paper

Baltimore County Government
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353
August 9, 1993
Mr. Michael S. Fischer
5225 Benson Avenue
Arbutus, Maryland 21227
RE: Case No. 94-19-A, Item No. 18
Petitioner: Michael S. Fischer
Petition for Variance
Dear Mr. Fischer:
The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.
Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on July 12, 1993, and a hearing was scheduled accordingly.
The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.
1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Maryland Department of Transportation
State Highway Administration
O. James Lighthizer
Secretary
Hal Kassoff
Administrator
Ms. Helene Kehring
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204
Re: Baltimore County
Item No.: 4-61-111
Dear Ms. Kehring:
This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.
Please contact Bob Small at 410-333-1350 if you have any questions.
Thank you for the opportunity to review this item.
Very truly yours,
for Bob Small
John Contestable, Chief
Engineering Access Permits
Division
My telephone number is _____
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 555-0451 D.C. Metro - 1-800-492-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: July 29, 1993
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Petitions from Zoning Advisory Committee
The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 9, 11, 12, 18, 19, 21, 24, 25, 26, 29, 32, 33, 34, 37 and 39.
If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.
Prepared by: Jeffrey M. Long
Division Chief: Gary L. Kerner
PK/JL:lw
ZAC.9/ZAC1

4675-73
RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER
E/S Benson Ave., 175' S of C/L :
Marsh Rd. (#5225 Benson Ave.) : OF BALTIMORE COUNTY
13th Election District :
1st Councilmanic District : Case No. 94-19-A
MICHAEL S. FISCHER, Petitioner :
ENTRY OF APPEARANCE
Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.
Peter Max Zimmerman
People's Counsel for Baltimore County
Carole S. Demilio
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188
I HEREBY CERTIFY that on this 29th day of July, 1993,
a copy of the foregoing Entry of Appearance was mailed to Michael S. Fischer, 5225 Benson Ave., Arbutus, MD 21227, Petitioner.
Peter Max Zimmerman
Peter Max Zimmerman
RECEIVED
JUL 30 1993
ZADM

Zoning
Enforcement
Baltimore County
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3351
ZONING VIOLATION CORRECTION NOTICE
June 8, 1993
Michael Fisher
5225 Benson Avenue
Baltimore, Maryland 21227
Re: Case No. C-93-1804
Location: 5225 Benson Avenue
13th Election District
Dear Mr. Fisher:
An inspection of your property, zoned D.R.S.5, has been made and it has been found that an apparent violation exists. According to Sections 101, 102.1, 1801.1A, 415 of the Baltimore County Zoning Regulations, the correction(s) listed below is/are required:
1. You are only permitted to store one recreational vehicle on your property. Please remove all other recreational vehicles.
The above-noted alleged violation(s) should be corrected by June 30, 1993 or a citation may be issued to you imposing monetary fines of \$200 per day, per violation (Section 26-121, Baltimore County Code).
It is hoped that through your cooperation the alleged violation(s) will be resolved without the need for district court action.
If further clarification is necessary as to this matter, please contact the inspector indicated below at 887-3351.
INSPECTOR: Kevin R. Connor
c: File
ITEM # 18
6.16.93 Room 113
111 WEST CHESAPEAKE
JUL 12 10AM
Room 109
Jim Longson
Zoning Enforcement
Coordinator

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Michael S. Fischer	5225 Benson Ave.
ROBERT FUNK	5223 BENSON AVE.
Kirk M. Linder	1600 Shalk Ave.

Plat to accompany Petition for Zoning Variance Special Hearing

PROPERTY ADDRESS: 5225 BENSON AVE

Subdivision name: ARBUTUS

Plot book: 4, Volume 87, 1st Edition, 1988

OWNER: MICHAEL S. FISCHER

94-19-A

Lot. No. 1

LOCATION INFORMATION

Election District: #13

Councilmanic District: S.W. 5-0

1"=200' scale map: S.W. 5-0

Zoning: D.R. S.5

Lot area: 25,329 square feet

SEWER: ☐

WATER: ☐

Chesapeake Bay Critical Area: ☐

Prior Zoning Hearings: NA

Zoning Office USE ONLY

reviewed by: R.T. 18

date: 7/15/93

prepared by: Michael S. Fischer

Scale of Drawing: 1"=100'

